

## HOUSE BILL NO. 175

INTRODUCED BY D. KOTTEL

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THAT A ROOMER IS A TENANT UNDER THE MONTANA RESIDENTIAL LANDLORD AND TENANT ACT OF 1977; PROVIDING THAT A ROOMER IS COVERED BY THE PROVISIONS GOVERNING RESIDENTIAL TENANTS' SECURITY DEPOSITS; PROHIBITING AN AGREEMENT INVOLVING A ROOMER TO BE CHARACTERIZED AS A MEMBERSHIP AGREEMENT; PROHIBITING RENTAL PAYMENTS AND SECURITY DEPOSITS TO BE CHARACTERIZED AS MEMBERSHIP DUES AND MAINTENANCE FEES; AND AMENDING SECTIONS 70-24-103, 70-24-202, AND 70-25-102, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 70-24-103, MCA, is amended to read:

**"70-24-103. General definitions.** Subject to additional definitions contained in subsequent sections and unless the context otherwise requires, in this chapter the following definitions apply:

(1) "Action" includes recoupment, counterclaim, setoff suit in equity, and any other proceeding in which rights are determined, including an action for possession.

(2) "Case of emergency" means an extraordinary occurrence beyond the tenant's control requiring immediate action to protect the premises or the tenant. A case of emergency may include the interruption of essential services, including heat, electricity, gas, running water, hot water, and sewer and septic system service, or life-threatening events in which the tenant or landlord has reasonable apprehension of immediate danger to the tenant or others.

(3) "Court" means the appropriate district court, justice's court, or city court.

(4) "Dwelling unit" means a structure or the part of a structure that is used as a home, residence, or sleeping place by a person, including a roomer, who maintains a household or by two or more persons who maintain a common household. Dwelling unit, in the case of a person who rents space in a mobile home park and rents the mobile home, means the mobile home itself.

(5) "Good faith" means honesty in fact in the conduct of the transaction concerned.

(6) "Landlord" means:

(a) the owner, lessor, or sublessor of the dwelling unit or the building of which it is a part; or

(b) a manager of the premises who fails to disclose the managerial position.

(7) "Organization" includes a corporation, government, governmental subdivision or agency, business trust, estate, trust, or partnership or association, two or more persons having a joint or common interest, and any other legal or commercial entity.

(8) "Owner" means one or more persons, jointly or severally, in whom is vested all or part of:

(a) the legal title to property; or

(b) the beneficial ownership and a right to present use and enjoyment of the premises, including a mortgagee in possession.

(9) "Person" includes an individual or organization.

(10) "Premises" means a dwelling unit, including the dwelling place of a roomer, and the structure of which it is a part, the facilities and appurtenances in the structure, and the grounds, areas, and facilities held out for the use of tenants generally or promised for the use of a tenant.

(11) "Rent" means all payments to be made to the landlord under the rental agreement.

(12) "Rental agreement" means all agreements, written or oral, and valid rules adopted under 70-24-311 embodying the terms and conditions concerning the use and occupancy of a dwelling unit and premises.

(13) "Roomer" means a person occupying a dwelling unit that does not include a toilet, a bathtub or a shower, a refrigerator, a stove, or a kitchen sink, all of which are provided by the landlord and one or more of which are used in common by occupants in the structure. A roomer is a tenant for the purposes of Title 70, chapter 25, and this chapter.

(14) "Single-family residence" means a structure maintained and used as a single dwelling unit. A dwelling unit that shares one or more walls with another dwelling unit is a single-family residence if it has direct access to a street or thoroughfare and does not share heating facilities, hot water equipment, or any other essential facility or service with another dwelling unit.

(15) "Tenant" means a person entitled under a rental agreement to occupy a dwelling unit to the exclusion of others."

**Section 2.** Section 70-24-202, MCA, is amended to read:

**"70-24-202. Prohibited provisions in rental agreements and agreements involving roomers. (1)**

A rental agreement may not provide that a party:

~~(4)~~(a) agrees to waive or forego rights or remedies under this chapter;

~~(2)(b)~~ authorizes any person to confess judgment on a claim arising out of the rental agreement; or

~~(3)(c)~~ agrees to the exculpation or limitation of liability resulting from the other party's purposeful misconduct or negligence or to indemnify the other party for that liability or the costs or ~~attorney's~~ attorney fees connected ~~therewith~~ to the other party's purposeful misconduct or negligence.

(2) An agreement involving a roomer is a rental agreement for the purposes of this chapter, and it is a violation of this chapter for an agreement involving a roomer to be characterized as a membership agreement or for rental payments and security deposits to be characterized as membership dues and maintenance fees."

**Section 3.** Section 70-25-102, MCA, is amended to read:

**"70-25-102. Application of chapter.** This chapter applies to all rentals of dwellings, ~~including and~~ mobile homes, ~~including rentals involving roomers,~~ but ~~excluding~~ does not apply to property of public housing authorities."

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